

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

TV TOKYO CORPORATION,

Plaintiff,

vs.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS AND
UNINCORPORATED ASSOCIATIONS
IDENTIFIED ON SCHEDULE A HERETO,

Defendants.

Case No. 1:25-cv-00246

Judge Matthew F. Kennelly

**THIRD-PARTY SHOPIFY INC.'S RESPONSE
TO PLAINTIFF'S SUPPLEMENTAL MEMORANDUM (ECF 70)**

Shopify respectfully submits this short response to argument and documents submitted for the first time in Plaintiff's late-filed¹ Supplemental Memorandum (ECF 70.). Plaintiff cites out-of-context language to mischaracterize Shopify's services and erroneously claim that, through "Shopify Payments," "Shop Pay Installments," and "Shop Pay," Shopify is a payment processor. (*Id.* at 2-6.) Additionally, without substantiation, Plaintiff states that merchants are automatically opted in to these products. (*Id.*) On all counts, Plaintiff is incorrect.

Though Shopify offers ecommerce services (like Shopify Payments) that allow merchants to "view and manage their payment information," merchants' funds are *not* "transferred to or stored in any Shopify-owned financial account." (ECF 69-1 (Pallotta Decl.) ¶ 6; *see also* ECF 70-5 at 8 (with Shopify Payments, merchants "can *view* your payouts directly from your Shopify Admin" (emphasis added)).) Indeed, Plaintiff's cited exhibits are clear that even when a customer purchases a product from a merchant who utilizes Shopify Payments, the money goes to and through third party bank accounts, not Shopify. (ECF 70-1 at 2 ("All Shopify-supported payment methods rely on third-party providers to process your transactions."); ECF 70-2 at 4 ("Clearing" identifies the third parties who are involved in the transfer of money, the: "credit card company"; "issuer"; and "acquirer").) Additionally, merchants are not automatically enrolled in Shopify Payments; they must explicitly opt into use of Shopify Payments and complete the required onboarding process. (*E.g.*, ECF 70-2 at 2 (noting that a merchant must first "activate Shopify Payments"); ECF 70-4 at 3 (listing onboarding process, including eligibility).)

As for "Shop Pay Installments" and "Shop Pay," contrary to Plaintiff's claims that these are services "offered to merchants" (ECF 70 at 4), in fact both are services that *consumers*, not

¹ Without permission, Plaintiff filed its submission over an hour past the Court's noon deadline—a deadline the Court expressly stated it would not extend for any reason. (ECF 68; ECF 70.)

merchants, can use to make payments. “Shop Pay Installments offers *customers* [not merchants] the option to pay for their order in installments” and a third party (Affirm) pays the merchant, not Shopify. (ECF 70-6 at 2 (emphasis added); ECF 70-8 (“You get paid by [third party] Affirm”).) “Shop Pay” is a consumer-facing “wallet that helps [customers] check out faster on participating stores by automatically filling in your saved email, payment, and shipping details.” (ECF 70-10 at 1; ECF 70-9 at 2 (“Using Shop Pay – Customer experience”); ECF 70-11 at 2 (“To use Shop Pay, customers need to [take certain steps]”).) Neither service results in Shopify holding monies paid to a merchant.

At bottom, Plaintiff’s cited exhibits merely describe Shopify’s ecommerce service offerings. But none means that any Shopify bank account receives or transfers funds sent by customers to merchants.

Dated: April 2, 2025

Respectfully submitted,

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